



Kansas Corporation Commission

Bill Graves, Governor John Wine, Chair Cynthia L. Claus, Commissioner Brian J. Moline, Commissioner

July 16, 1999

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Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington D.C. 20554

RE: In the Matter of Applications for Consent to the Transfer of Control of Licenses and
Section 214 Authorizations from Ameritech Corporation, transferor, to SBC
Communications Inc., Transferee. CC Docket 98-141.

Dear Ms. Salas:

The Comments of the State Corporation Commission of the State of Kansas responding
to the Notice of the Federal Communications Commission in the captioned docket are enclosed.

Sincerely yours,

A handwritten signature in cursive script that reads "Eva Powers".

Eva Powers
Assistant General Counsel
Kansas Corporation Commission

enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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cations Inc., Transferee.)

CC Docket 98-141

COMMENTS OF THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

July 19, 1999

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

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**COMMENTS OF THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**


On October 14, 1998, The State Corporation Commission of the State of Kansas (KCC) filed Comments in this docket, expressing concern about investment in infrastructure, quality of service and competitive markets.

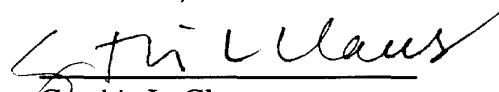
The Proposed Conditions for FCC Order Approving SBC/Ameritech Merger address and significantly relieve those concerns. However, the Proposed Conditions raise some procedural and jurisdictional questions which are more fully discussed in the attached Observations of the KCC staff.

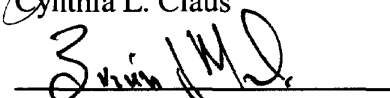
The KCC requests that prior to the approval of the Proposed Conditions, the FCC, in consultations with affected state commissions, address these new questions and concerns.

Respectfully Submitted,

Kansas Corporation Commission
1500 SW Arrowhead, Topeka KS 66604


John Wine, Chair


Cynthia L. Claus


Brian J. Moline

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of Applications for Consent)
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**OBSERVATIONS OF STAFF OF THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In response to the Notice requesting comments on the Proposed Conditions for FCC Order Approving SBC/Ameritech Merger, staff of the State Corporation Commission of the State of Kansas (KCC staff) submits the following Observations. Because the language of the Proposed Conditions is at times unclear, these Observations to a significant extent consist of questions.

1. KCC staff believes that many of the conditions proposed by SBC/Ameritech would assist in promoting competition in Kansas. KCC staff does, however, have concerns regarding some of the proposed Conditions. First, KCC staff notes that these conditions are presented to the FCC for acceptance, yet many provisions require dispute resolution by the respective state commissions. Although KCC staff strongly believes that disputes regarding intrastate telecommunications matter should be resolved by the state commission, in this instance the KCC would be asked to resolve disputes based on a document accepted by the FCC, based on its understanding of the document. It seems clear that the KCC and the FCC might at times differ regarding interpretation of language of the Proposed Conditions. The KCC staff observes that the language is not always clear and leaves much unsaid. Interpretation will be necessary. If the FCC approves the merger based on the Proposed Conditions will the FCC assign staff to work with state commissions and provide easy access to such staff, so that state commission staff may consult with FCC staff regarding

interpretation of provisions, the implementation of which may require resolution by state commissions? Without access to the history and/or intent of the negotiated provisions, resolution of disputes by multiple state commissions will most certainly lead to a patchwork of decisions which may, or may not, be consistent with the FCC's original intent. Would a state commission decision pursuant to the proposed Conditions be appealable to the FCC, or would any appeal be governed by state statutes and procedural rules?

2. Section II, ¶ 4 indicates that SBC and Ameritech shall file a collocation tariff and or amendments containing standard terms and conditions for collocation for inclusion in interconnection agreements. Is KCC staff's understanding correct that such "standard terms and conditions" do not include prices for collocation and that SBC and Ameritech do not intend to tariff prices for collocation?

3. Performance Measurement # 20 indicates that Billing timeliness will be measured. KCC staff believes that billing accuracy is an essential Billing Performance Measurement. KCC staff is aware of disputes between CLECs and SBC (Southwestern Bell Telephone Company) regarding billing accuracy.

4. Section IV, ¶ 18 provides that SBC and Ameritech will not charge for use of standard electronic interfaces for accessing OSS that support pre-ordering, ordering, provisioning, maintenance/repair, and billing of resold services, UNEs that meet the requirements of 47 U.S.C § 251(c)(3), and UNEs or UNE combinations required by this Appendix. The last sentence of the paragraph then states, "[t]his condition, however, does not affect SBC/Ameritech's right either to charge CLECs for processing orders which are not received electronically (i.e., orders received by mail, by fax, or by other non-electronic methods of transmitting orders), or to recover the costs of

developing and providing OSS to CLECs through the pricing of UNEs or resold services.” It is KCC staff’s understanding that the charges for use of OSS are based on the costs of developing and providing OSS. By eliminating those charges but reserving the right to collect them through pricing of UNEs or resold services, it appears cost recovery is merely being shifted from a charge for use of OSS to an increased price for UNEs and resold services. Is this the intent? Is there any intent that SBC and Ameritech forego recovery of any costs related to OSS or is the intent only to shift cost recovery or defer it beyond the three year period and then recover costs retroactively?

5. Paragraph 18 also indicates that orders submitted manually will be subject to charges. Kansas has limited OSS charges to the charges for electronic access to OSS, since it was found that the need for manual access was generally a result of SWBT’s OSS and not because of a CLEC preference for manual ordering. What impact would the provision in ¶ 18 regarding charging for manual processing have on the KCC’s decision?

6. The KCC staff believes the strategy laid out in section VI, *xDSL and Advanced Services Deployment*, is clear and is pleased with the focus on deploying Advanced Services to areas that might otherwise not receive such services. Kansas is very interested in the deployment of these services to its citizens and would like to be included in the information loop for deployment of these services. Having ready access to such information would be quite helpful in enabling Kansas to monitor and, possibly, develop additional deployment incentives (and thus achieve the objectives of Sec. 706 of the FTA).

7. Paragraph 26 of the proposal identifies technologies and/or services to be moved to a newly formed advanced services affiliate. These technologies also provide intra-state services and currently fall under the purview of state commissions. What impact will this movement have on

state jurisdiction over such services?

8. Section XVIII, ¶ 58 commits SBC and Ameritech to installation of new cable in newly constructed or retrofitted buildings so as to permit CLECs a single point of interface for three years after approval of the merger. No indication is provided regarding the price to CLECs or how the costs of such installation will be allocated. KCC staff believes availability of a single point of interface is in the public interest and will promote competitive entry, but the price charged to the CLEC will significantly affect such entry.

9. Section XX, ¶ 60 addresses promises to file a tariff for an enhanced Lifeline Plan. The plan to be filed is the one adopted in Ohio. KCC staff observes that implementation of such a plan in Kansas would reduce lifeline benefits to Kansas customer inasmuch as the Ohio plan is more restrictive than the Kansas plan and provides a smaller total monetary payment to eligible recipients. KCC staff believes such a plan should only be filed in states in which the proposed plan is an improvement over the existing plan.

In conclusion KCC staff believes the Proposed Conditions are likely to promote competitive entry, but want to bring the above-stated questions and concerns to the attention of the FCC.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Eva Powers", written in dark ink.

Eva Powers
1500 SW Arrowhead
Topeka KS 66604
785 271-3173

Counsel for Kansas Commission Staff